

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

JOSE CRUZ, a/k/a FLACKO

Defendant.

DECISION AND ORDER
07-CR-187S

1. On October 16, 2008, the Defendant entered into a written plea agreement (Docket No. 217) and pled guilty to a One Count Superseding Felony Information (Docket No. 216) charging a violation of Title 21, U.S.C. Section 846 (conspiracy to possess with intent to distribute and to distribute heroin).

2. On October 16, 2008, the Honorable H. Kenneth Schroeder, Jr., United States Magistrate Judge, filed a Report and Recommendation (Docket No. 219) recommending that Defendant's plea of guilty be accepted and the Defendant adjudicated guilty.

3. This Court has not received objections to the Report and Recommendation in accordance with 28 U.S.C. §636(b)(1)(C) and Local Rule 58.2(a)(3).

4. This Court has carefully reviewed *de novo* Judge Schroeder's October 16, 2008, Report and Recommendation, the plea agreement, transcript of the proceeding, and the applicable law. Upon due consideration, this Court finds no legal or factual error in Judge Schroeder's Report and Recommendation, and will accept Judge Schroeder's recommendation that Defendant's plea of guilty be accepted and that the Defendant be adjudicated guilty as charged.

IT HEREBY IS ORDERED, that this Court accepts Judge Schroeder's October 16, 2008, Report and Recommendation (Docket No. 219) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that the plea of guilty of Defendant Jose Cruz is accepted, and he is now adjudged guilty of Title 21, U.S.C. Section 846.

SO ORDERED.

Dated: November 18, 2008
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge